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Congress urged to act on predatory lending

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In 1999, North Carolina became the first state to enact a law against predatory lending. Yesterday, Congress took the first of what is expected to be many steps toward enacting a similar law at the federal level.

A key House subcommittee heard testimony for nearly four hours from industry representatives, as well as state and federal officials, about the lending industry and what needs to be done to ease a threatened spike in mortgage defaults.

"There is a sense of urgency because of the increase in foreclosures, and a number of them are coming from predatory loans and subprime practices," said Rep. Mel Watt, D-12th, who is expected to introduce legislation, along with Rep. Brad Miller, D-13th.

The bill, to be introduced later this year, would use the North Carolina lending law as a model.

North Carolina's law bars unethical lending practices and restricts what fees and finance practices can be used in loan agreements.

Predatory loans can strip homeowners of equity through excessive fees and re-financing

requirements that are unnecessary, eventually forcing many loans into foreclosure. Subprime loans, which are sometimes considered predatory loans, allow those with poor credit to receive a loan, but they include higher fees, which can increase over the time of the loan and can contribute to foreclosure.

Sandra L. Thompson, the director of the consumer-protection division of the Federal Deposit Insurance Corporation, testified last week that the number of subprime loans more than doubled from 9 percent to 19 percent between 2003 and 2005, when low interest rates drew borrowers to either refinance or purchase homes.

Statistics from the FDIC also show that more borrowers who took on subprime loans with adjustable-rate mortgages are struggling. In the fourth quarter of 2006, the number of loans 60 days past due increased to about 14 percent, up from 10 percent at the end of 2004.

Sheila Bair, the chairwoman of the FDIC, said that a national standard that would apply to all lenders would be a step in the right direction.

"A national anti-predatory lending standard would help assure basic uniform protections for all borrowers, as well as create a more level playing field for regulated entities," she said during the hearing.

After the hearing, she said that various approaches should be considered, including federal regulations instead of just congressional action. But if Congress was going to take a legislative approach, the North Carolina model was "the prototype."

Other consumer and industry advocates echoed these sentiments, so long as all sectors of the mortgage industry are included.

Miller, Watt and Rep. Patrick McHenry, R-10th, spent much of yesterday's hearing grilling industry officials and consumer advocates about predatory lending and subprime loans.

Both Miller and Watt suggested that there were areas of improvement over the existing North Carolina law. The changes come in large part because the market has changed significantly since 1999, when the law was enacted, and 2005, the last time they introduced a similar bill.

"We need to look more closely at the ability (of homeowners) to repay the loans," said Miller, noting that several of the more common loans available now for homeowners were not on the market five years ago.

Watt said he hopes that the hearings over the next few months will shed light on the changing industry and help Congress craft legislation that can meet those changing needs. He did not expect the new bill to be identical to the previous bills.

"The market and the facts have to be drawn out. We can't just do this overnight," he said.

McHenry, however, has "concerns" about pushing for a federal law that's similar to North Carolina's legislation.

"North Carolina is not the model that activist groups have made it out to be," he said. "And if you put further regulations in the marketplace, than it will allow fewer" loans and opportunities for home ownership.

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